

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FREDERICK AMBROSE WARE III,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

No. 2:21-cv-00203 AC

ORDER LIFTING STAY AND
SCHEDULING ORDER

The plaintiff seeks judicial review of an administrative decision of the Commissioner of Social Security denying the plaintiff's claim for disability benefits under the Social Security Act. This matter is before the undersigned pursuant to 42 U.S.C. §§ 405(g), 1383(c)(3) and Local Rule 302(c)(15). Good cause appearing and pursuant to Fed. R. Civ. P. 16, the Court **ORDERS** as follows:

1. This case was previously stayed pursuant to General Order Number 615. (See ECF No. 4.) However, now that the Commissioner has filed an answer and administrative transcript, the court now LIFTS the stay for this case.

2. **Within 45 days after service of the administrative record**, the plaintiff shall file the motion for summary judgment;

3. **Within 45 days after service of plaintiff's opening brief**, the defendant shall file the responsive brief;

1 4. **Within 15 days after filing of defendant's brief**, the plaintiff shall file the
2 optional reply brief;

3 5. In those cases where a Fed. R. Civ. P. 12 motion to dismiss is warranted, the
4 defendant shall file a motion to dismiss in lieu of filing the administrative record. The motion to
5 dismiss shall be filed within 90 days of service of the complaint. The opposing brief shall be filed
6 within 14 days after service of the motion. The reply brief shall be filed within seven days after
7 service of the opposition brief. The motion to dismiss shall NOT be noticed for hearing.

8 6. Motions for attorney fees shall be filed within 30 days after entry of final
9 judgment. Any opposition to such motion is due within 30 days of the motion being filed.

10 7. All references to the record and all assertion of fact must be accompanied by
11 citations to the record. The opening and responsive brief shall contain the following:

12 (a) A description of the plaintiff's alleged physical or emotional impairments,
13 including when the plaintiff contends the impairments became disabling, and how these
14 impairments disable the plaintiff from work;

15 (b) A summary of all relevant medical evidence, including an explanation of
16 the significance of clinical and laboratory findings and the purpose and effect of prescribed
17 medication and therapy;

18 (c) A summary of the relevant testimony at the administrative hearing;

19 (d) A recitation of the defendant's findings and conclusions relevant to the
20 plaintiff's claims;

21 (e) A short, separate statement of each of the plaintiff's legal claims stated in
22 terms of the insufficiency of the evidence to support findings of fact or reliance upon an
23 erroneous legal standard; and

24 (f) Argument separately addressing each claimed error. Argument in support
25 of each claim of error must be supported by citation to legal authority and explanation of the
26 application of such authority to the facts of the particular case. Briefs that do not substantially
27 comply with these requirements will be stricken.

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8. Requests for modification of this briefing schedule will not routinely be granted. Any such request must be made by written stipulation or motion and will be granted only for good cause. A request for a modification brought on the filing deadline, will be looked upon with disfavor. Local Rule 144(d).

DATED: September 8, 2021